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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ERIC MARKOWITZ, FRANK
BLUMENTHAL, LAUREN REESE
and BILLY STERN, on behalf of
themselves and all others similarly
situated,

Plaintiffs,

v.

FACEBOOK, INC., a Delaware
corporation,

Defendant.

CASE NO.: C10-CV-00430 JF

DONALD SILVERSTRI, DAWN
KEER, KIMBERLY MANCELLA,
JILL SILVERMAN STRELZIN, and
CHRISTOPHER LEMOLE, on behalf
of themselves and all others similarly
situated,

Plaintiffs,

v.

FACEBOOK, INC., a Delaware
corporation,

Defendant.

CASE NO.: C10-CV-00429 JF

ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED;
DECLARATION OF DAVID N.
LAKE

[LOCAL RULES 3-12 & 7-11]

1 **TO THE COURT AND ALL PARTIES AND THEIR COUNSEL:**

2 **PLEASE TAKE NOTICE** that pursuant to Local Rule 3-12, Plaintiffs in the
 3 above-captioned matters believe that these actions may be related to the following
 4 case pending in the United States District Court, Northern District of California
 5 before the Honorable James Ware: Lane, et al. v. Facebook, et al., Case No. C08-
 6 CV-3845.

7 Civil Local Rule 3-12 provides the applicable standard: “An action is related
 8 to another when: (1) The actions concern substantially the same parties, property,
 9 transaction or event; and (2) It appears likely that there will be an unduly
 10 burdensome duplication of labor and expense or conflicting results if the cases are
 11 conducted before different Judges.” Both criteria are met here.

12 The above-captioned cases are related to Lane because they involve
 13 substantially the same parties and concern common legal issues of privacy created
 14 by the common defendant, Facebook, Inc. *See* Civ. L.R. 3-12(a)(1). The Lane matter
 15 involves discrete privacy issues from an earlier time. The instant cases are about
 16 privacy issues as well, but the issues raised therein are more recent. If the cases are
 17 conducted before different judges, there will likely be a burdensome duplication of
 18 labor and expense that could be avoided. *See* Civ. L.R. 3-12(a)(2). Also, counsel for
 19 Facebook in both actions is the same. This motion is made for the convenience of
 20 the Court and does not affect the parties to the Lane matter because that case is in
 21 settlement mode. Declaration of David N. Lake, ¶ 2.

22 Counsel for the parties in the above-captioned cases have conferred, and the
 23 parties are in agreement that the Markowitz action should be consolidated with the
 24 Silverstri action for all purposes because the cases involve similar complaints and
 25 common questions of law or fact, and because consolidation would advance the
 26 interests of judicial economy. To this end, the parties, through their respective
 27 counsel, have signed and submitted a stipulation and proposed order requesting
 28

1 consolidation of the above-captioned actions pursuant to Federal Rule of Civil
2 Procedure 42(a).

3 The above-captioned cases and the Lane case satisfy the criteria of Local
4 Civil Rule 3-12. Therefore, plaintiffs in the above-captioned cases respectfully
5 request that these cases be deemed related to the Lane case (not consolidated
6 therewith) and assigned to the Honorable James Ware.

7
8 DATED: February 5, 2010

LAW OFFICES OF DAVID N. LAKE

9
10 By: /s/
11 DAVID N. LAKE
Attorneys for Plaintiffs

12 **Of Counsel:** [Case No. C10-CV-00430 JF]

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19 **Of Counsel:** [Case No. C10-CV-00429 JF]

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DECLARATION OF DAVID N. LAKE

I, David N. Lake, declare as follows:

1. I am an attorney license to practice law in the State of California, and am admitted to practice before the United States District Court, Southern District of California. My application for admittance to the Northern District is pending. I am a partner in the Law Offices of David N. Lake, A Professional Corporation, counsel to plaintiffs in the above-captioned actions. I submit this declaration in support of the administrative motion to consider it cases should be related. I have personal knowledge of the facts set forth herein and, if called upon, could and would competently testify thereto.

2. This motion is made for the convenience of the Court and does not affect the parties to the Lane matter because I am informed that case is in settlement mode. This is why a stipulation was not obtained from the counsel or parties in Lane.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on February 5, 2010, at Encino, California.

/s/

David N. Lake

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 16130 Ventura Boulevard, Suite 650, Encino, CA 91436. On February 5, 2010, I served the within document(s) described as: **ADMINISTRATIVE MOTION TO CONSIDER WHETHER CASES SHOULD BE RELATED; DECLARATION OF DAVID N. LAKE** on the interested parties in this action as stated on the attached mailing list:

☒ (BY MAIL) By placing a true copy of the foregoing document(s) in a sealed envelope addressed as set forth on the attached mailing list. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing contained in affidavit.

☐ (BY OVERNIGHT DELIVERY) I deposited in a box or other facility regularly maintained by Federal Express, an express service carrier, or delivered to a courier or driver authorized by said express service carrier to receive documents, a true copy of the foregoing document(s) in a sealed envelope or package designated by the express service carrier, addressed as set forth on the attached mailing list, with fees for overnight delivery paid or provided for.

Alan Himmelfarb, Esq.
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2757 Leonis Blvd
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(Counsel for Plaintiffs in Lane v. Facebook, Case
No. C08-CV-03845 RS)

☐ (BY PERSONAL DELIVERY) By providing a true and correct copy of the foregoing document(s) in a sealed envelope to each of the addressees listed above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on February 5, 2008, at Encino, California.

David N. Lake
(Type or print name)

/s/
(Signature)